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Atari Online News, Etc.
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->From the Editor's Keyboard "Saying it like it is!"
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Well, I'm finally beginning to feel better although I haven't completely shaken this nagging cold yet. You would think that something so common could be cured in this day and age! Even my mouth, after the surgery, is rarely bothering me these days. Now if we can only get that warm spring weather, I'd be all set.

The U.S. government never ceases to amaze me. Fortunately, there are people out there who stand up for the rights that our government is supposed to protect. Yes, it's that CIPA law still. The law that was enacted to protect children from online pornography. Many of our country's libraries receive federal subsidies for support. Part of this CIPA law requires that libraries utilize filtering software or risk losing their subsidy. Well, these filters do not work perfectly and libraries are crying foul because First Amendment rights are being violated. Good for the libraries, as I stated numerous times in the past. The unmitigated gall of the government attorneys to say that if libraries don't want the filtering software, feel free to get rid of them. The catch is no financial support. Either subsidize the libraries, or not - we shouldn't be in the business to dictate conditions. There have to be better ways to help protect children than a mechanism that is proven to be faulty, and infringe on people's legitimate rights to access this information. Finally, reality strikes some people with some common sense! After a two-week hearing, a panel of judges is leaning toward skepticism of this filtering decision. In all likelihood, this case is going to end up in front of the Supreme Court. I'm betting on the side of the library!

Until next time...

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Atari Computer Database Upgrade

The Atari Computer Database has been given a major upgrade! Although not complete, the moment a regular visitor arrives or even a casual visitor, one will notice a very large difference. The rest of the conversion from

the old format will go online bit by bit but as it is, any thing that is still in old format will still stay online until its upgrade is complete.

http://acd.atari.org

HighWire 0.03 Released!

The HighWire Development Team has released the third demonstration package. Progress has been made and there are many more exciting things coming in the near future. Finding a point to release this time around has been very hard. Almost daily, some new support has been added or some old bug found and exterminated.

Improvements have been made throughout the code. Tables support is looking brilliant, frameset support has been improved again. Some irritating font issues have been fixed. Upper range character display improvements. Atari character display in text files. More ’common’ buggy html code is supported. Yes many ’popular’ sites have html that doesn’t comply with the specs ;) And that is only a portion of the improvements.

As always, we hope that this release will silence some of the detractors who have been saying our task is impossible. Our goal is achievable, it will just take time and your support. We can always use more programmers and support on the documentation side of the project always is a critical need. Translation support for more languages would be a great addition to the project as well.

We do feel that we have something here that shows that our platforms need for an open source browser can be obtained. Currently it should not really be classified as a browser, but more of a demonstration of a parsing and rendering engine. This technology is open source, so hopefully with your support it can be the core to many projects on our platform. Not the least of which will be in the future a fully modern web browser. To reach that goal we will need time and the help of community.

HighWire Development Team
http://highwire.atari-users.net

MusicEdit 7.0 Released

As users wished, MusicEdit now has a fully graphical input.

Right mouse-button is supported too, for opening graphical elements.

http://www.musicedit.de/

Hang Loose Telnet BBS

As it takes me years to complete the Hang Loose Web page you can go meanwhile to telnet://bbs.atari-warez.com to get yourself a account and than either download your wanted files via telnet z-modem (yeah good

old times) or after creating an account via ftp://ftp.atari-warez.com
with your newly created username and password.

bandit@climatics.com
telnet://bbs.atari-warez.com/

April Issue of MyAtari Released

The editor of MyAtari has announced:

The April issue of MyAtari magazine is now available to read on-line
www.myatari.net

The March issue is also available to download from our back issues page.
Finally, please note that voting for the MyAtari 2002 Awards ends at
midnight on the 7th April 2002! If you are yet to cast your vote, please
do so ASAP

http://www.myatari.net

Mekka/Symposium Atari Demos

Two new Falcon-demos were released at the Mekka/Symposium party in
Germany this weekend. One bigger demo from Ephidrena, previously only
active on the Amiga and another demo from the infamous Spiceboys.

Download them both at the URL below.
http://www.dhs.nu/

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PEOPLE ARE TALKING

compiled by Joe Mirando
joe@atarinews.org

[Editor's note: Due to an electronic communications problem, this week's
People Are Talking column is unavailable. It will return next issue. Our
apologies.]

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->In This Week's Gaming Section - Is GameCube Price Cut Coming?
  """""""""""""""""""""""""""""   Star Wars Jedi Starfighter!

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->A-ONE's Game Console Industry News - The Latest Gaming News!
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Nintendo May Consider GameCube Price Cut

Video game publisher and console maker Nintendo Co. Ltd. may cut the price of its new GameCube console later this year, depending on a similar price cut from Sony Corp. for its PlayStation 2, a company executive told Reuters on Monday.

On the sidelines of a Nintendo event coinciding with the start of the season for baseball's Seattle Mariners, in which the company is a lead investor, Vice President of Marketing George Harrison said a GameCube cut was contingent on whether any Sony price cut is to $199 or $249, from the current price of $299.

"We haven't made a decision on (a price cut)," Harrison said. "Sony's expected to make the first move and then we'll see where we stand." He implied that the deeper price cut, to $199, would make a GameCube cut more likely.

The GameCube currently retails nationally for $199.95.

Despite frequent denials that it has any plans on any price cut, Sony has been widely expected to cut the PS2's price this year, presumably at the industry's Electronic Entertainment Expo (E3) in May.

Harrison said Nintendo had expected Sony might cut the price at a retailer conference it held last month, and that any GameCube price cut would have to come by August in order to have full effect for the holiday season.

Harrison speculated that if Sony makes a deep enough cut, and if Nintendo makes a cut, then Microsoft Corp. might also have to cut the price on its $299 Xbox, which came out last November.

He also said the company expects to have shipped 2 million GameCubes in North America as of Mar. 31, implying it has shipped 500,000 this year after shipping 1.5 million between its Nov. 18 launch and the end of 2001.

As for software pricing, Harrison said Nintendo saw no need to cut its $49.99 price for its top titles, though it may consider a discount program for best-selling games down the road, as Sony recently announced.

Review of 'Star Wars Jedi Starfighter'

You'd better hope the Force is with you if you plan to come out victorious

in "Star Wars Jedi Starfighter."

An excellent new game from LucasArts for the PlayStation 2 adds to the vast collection of titles available using the hugely popular Star Wars movie series as a base.

It might seem as if a Star Wars game surfaces every week or so, but this one has something the others don’t - a link to Episode II Attack of the Clones, the next, as-yet unreleased movie in the series.

The game focuses on Nym, a rebel leader, and Adi Gallia, a female Jedi knight sent to make sure the resources-rich Karthakk system doesn’t fall into the hands of the Trade Federation.

To achieve that end, you’ll be cruising through 15 missions in the sleek and speedy Jedi Starfighter, or Nym’s starship, the Havoc, which has four devastating secondary weapons to choose from.

Even better, you’ll also have access to the Force.

It’s complicated to explain the use of the Force in the game, but a lot of its value rests in your ability to time its power. Pressing the O button summons the Force, but how long you hold the button is key to using it effectively.

The Force can be used in several ways; as a shield, as a lightning field that can damage or even destroy enemy craft, as a means of speeding up your reflexes (actually, slowing down the rest of the game) and as a powerful shock wave.

The Force isn’t just a technical gimmick you can call up once in a while. It’s a vital part of the game, and the harder the missions get, the less likely you’ll be able to complete them without using it.

The game also displays nice teamwork between you and your AI wingmen.

If you have a real person to play with, the split-screen two-person mode is excellent. The second player flies as one of three additional pilot characters - Reti, Jinkins or Siri Tachi - or serves as turret gunner on Havoc’s bomber, which player one (that’s you) is piloting.

The missions feature a wide selection of enemies, from hordes of aircraft to submarines and destroyers to land facilities such as tractor beams and weapons turrets. There are useful training missions available if you’re feeling inadequate, and unlockable bonus levels are lurking for the talented fighter pilot.

Graphics get an A. They’re beautifully shaded and detailed and look far better than last year’s original Starfighter title. Wildly colorful combat effects add to the on-screen excellence.

Control gets a B+. Everything works smoothly, including the targeting. If only the fighters would just turn a little faster; I constantly found myself being passed by enemy warships and unable to swing around fast enough to deal with them.

Sound gets an A. The roar of crackling weapons, huge, colorful explosions, radio chatter and Star Wars tunes add greatly to the enjoyment of the game.

"Star Wars Jedi Starfighter" gets an A. The game doesn't give away the plot of this summer's latest Star Wars flick, but it will sure get you in the mood. It's a solid upgrade of the original "Starfighter" game, and has to be one of the best Star Wars titles yet.

May the Force be with you.

"Star Wars Jedi Starfighter" is rated T, for ages 13 and up.

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A-ONE's Headline News
The Latest in Computer Technology News
Compiled by: Dana P. Jacobson

Walter Hewlett Dumped From HP Board

Hewlett-Packard said Monday that it will not renominate Walter Hewlett to its board of directors.

As first reported by CNET News.com, HP chose not to nominate Hewlett, who late last year launched a proxy fight opposing the company's planned acquisition of Compaq Computer.

In a statement, HP said that the decision of its board not to nominate Hewlett is "based on his ongoing adversarial relationship with the company, as evidenced by his recent litigation against HP, as well as concerns about his lack of candor and issues of trust."

HP's board said that it had planned to renominate Hewlett but changed its mind after he launched a lawsuit against the company that questioned the last-minute decision of institutional shareholder Deutsche Asset Management (a unit of Deutsche Bank) to support the deal.

HP called the suit "spurious," adding that "allegations that HP bought votes from Deutsche Bank or improperly coerced it to change its votes are false."

Hewlett said in a statement that he regretted the company's decision not to renominate him.

"It is unfortunate that the HP board has seemingly missed what the company's stockholders have clearly recognized: that dissent is not disloyalty, that healthy boards need not agree on every issue and that while management and board may run a company, the stockholders are the true owners of a company."

Hewlett reiterated that if the merger with Compaq is eventually closed, he will do everything he can to "support the successful implementation of the merger."

According to Sam Ginn, chairman of the HP board's nominating and governance committee, CEO Carly Fiorina encouraged Ginn to meet with

Hewlett after last month’s shareholder meeting to "re-establish a constructive working relationship."

The parties met again March 27, and it looked as though Hewlett would be renominated, Ginn said. However, the board was "shocked" by Hewlett’s subsequent lawsuit, adding that he was "continuing his assault on the integrity of the HP board and management team."

HP said the decision not to nominate Hewlett wouldn’t deter the company from selecting independent board members.

"The board recognizes the importance of shareowner voices. We will reach out to shareowners, including our institutions and foundations, to determine the best way to assure they continue to be heard," Fiorina said.

If the merger transaction with Compaq closes before HP’s annual meeting April 26, HP said shareholders will vote on the following nominees later this month:

- Current HP board members Philip M. Condit, Patricia C. Dunn, Fiorina, Ginn, Richard A. Hackborn, George A. Keyworth II and Robert E. Knowling Jr.

- Current Compaq board members Lawrence T. Babbio Jr., Michael D. Capellas, Sanford M. Litvack, Thomas J. Perkins and Lucille S. Salhany.

If the merger with Compaq doesn’t close before the meeting, HP shareholders will vote on the following nominees: Condit, Dunn, Fiorina, Ginn, Hackborn, Keyworth, Knowling and Robert P. Wayman.

The annual meeting will start at 2 p.m. PST on April 26 at the Flint Center in Cupertino, Calif.

Although Hewlett won’t serve on HP’s board anymore, he is still a board member at Agilent Technologies, an HP spinoff.

The vote to exclude Hewlett is likely to spark sharp criticism from some employees, investors and others who have a stake in HP’s leadership. Hewlett’s decision to publicly fight against HP’s $20 billion acquisition of Compaq has been hailed by advocates for shareholder rights as well as by large institutional investors.

In addition, many HP employees--who face being among the thousands who will lose their jobs if the merger is completed--have rallied behind Hewlett.

Not having Hewlett on the board could also present other problems. His exclusion would mean that no Hewlett or Packard family member is included on HP’s board--no trivial matter, considering that the family group holds about 18 percent of HP shares through various trusts, foundations and personal holdings.

However, if the merger is completed, the power of their voting bloc would be somewhat diluted.

The vote marks the latest chapter in a nasty five-month proxy battle over HP’s proposed Compaq acquisition that has pitted HP against one of its own directors. Just four days ago, Hewlett filed a lawsuit charging HP with improperly garnering votes for the merger and requesting that a judge invalidate the shares cast in favor of the deal.

Hewlett announced last November that he would oppose the merger, even though he initially voted for it as an HP director. Since then, both sides have traded caustic personal attacks: HP has dismissed Hewlett as a "musician and academic," and Hewlett has called for Fiorina’s ouster.

Recriminations also flew back and forth between the outside directors and Hewlett over such issues as Hewlett’s release of board minutes on executive compensation, a topic he felt should be shared with investors before the merger vote.

The fighting continued right up to HP’s March 19 shareholder vote on the merger. HP claimed victory after that meeting, based on an informal count. But Hewlett has maintained that the results are too close to call.

Hewlett still has at least two options to get his name before shareholders at the upcoming annual meeting. He can ask the HP board to waive a Nov. 29 deadline for write-in candidates to declare their candidacy, or he can ask a court to waive the deadline.

Hewlett knew of the deadline when he launched his proxy fight in early November and could have entered his name as a write-in candidate early on. However, he "knowingly let the time go by," said a source close to Hewlett.

Without the deadline waiver, Hewlett would then be off the board for a year with the possibility of submitting his name as a write-in candidate when the one-year term for HP directors expires.

"I won’t speculate about what I’ll be doing in a year’s time," Hewlett said at a press conference last month when asked about serving as a write-in candidate if the board should not renominate him.

Hewlett said he would be interested in serving another term. If not renominated, he could develop his own slate of directors--a move that would cast him in another contentious proxy battle.

"There’s been several cases where a slate of directors was introduced and replaced the incumbent board," said Charles Elon, professor of corporate governance with the University of Delaware.

Last year, timber giant Weyerhaeuser successfully unseated three board members of rival Willamette in favor of its own slate. The proxy battle was part of Weyerhaeuser’s effort to acquire Willamette.

Hewlett’s expected departure would signal the end of family participation on the HP board. Over the past several years, founding family members David Woodley Packard, Susan Packard Orr and Hewlett’s brother-in-law, Jean-Paul Gimon, have left the board for a variety of reasons.

Hewlett’s exclusion could also stir discontent among shareholder advocates.

Institutional Shareholder Services, a proxy adviser to about 23 percent of HP’s institutional investors, had strongly urged the company to have a director with a large stake on the board and one who is willing to be a shareholder activist. ISS noted that Hewlett embodies both such traits.

"We believe that the board would benefit materially from the continued presence of a significant shareholder on the board, however--a presence

that would be lost if Mr. Hewlett leaves and is not replaced by another member of the Hewlett or Packard families," ISS stated in its HP merger recommendation report to institutional investors.

One family member who asked not to be identified agrees with ISS's assessment about significant shareholders but noted that representation does not necessarily have to come from a blood relation.

"When you have two families with 18 percent of the shares, you should have one person on the board who will represent the point of view of the families," said a family member. "It doesn't necessarily have to be a family member, but it should be someone who represents their views."

The family member added that if Hewlett wasn't renominated, it would be hard to predict whether the Packard and Hewlett families would seek a board seat via a write-in candidate or work together to jointly find a board member to represent their views.

"We've never really worked together before (on HP business matters)...The families are fairly independent from one another," the family member said. "(HP's) board seems to value directors who have business experience. But company boards are supposed to represent all shareholders, and not all shareholders are in business. I think it is important to get balance on the board, any board."

Elon said there are other reasons why Hewlett should be renominated, particularly because of the support he receives from a large percentage of shareholders.

"He has close to half of the shareholders who think he's doing the right thing," Elon said. "Given these circumstances, he represents an important constituency."

During the March shareholders' meeting, Hewlett received rousing applause and a standing ovation when he gave a five-minute presentation. Hewlett's reception was in sharp contrast to that of Fiorina, who at one point was booed when she said a majority of employees favored the merger.

Ironically, Hewlett's presentation almost helped him dodge a bullet.

HP directors were on the verge of nixing his renomination and had even scheduled a board meeting for later that day, after the HP shareholders morning vote, said a source familiar with the company.

"Originally, that was the objective," said a source. "But Walter made a number of conciliatory comments at the shareholders' meeting about supporting the merger if it went through."

That March 19 board meeting was canceled and a new one scheduled for last Wednesday. During last week's board meeting, Hewlett discussed his views on corporate governance and how he would view his responsibilities if he stayed on as a director.

"He said if the merger goes through, he's not one to fight lost battles," the source said. "He also said he now has international stature, which may help him do things for the merger that others could not."

During that meeting, Hewlett later signed off the conference call to enable the directors to go into executive session to further discuss his status on the board. The board voted to renominate Hewlett, on the

contingency that nominating-committee members Ginn and Condit have one last discussion with Hewlett to re-confirm the board's understanding of how Hewlett viewed his director's role.

Ginn and Condit would be empowered to tell Walter he was renominated, provided they were satisfied with his answers. But Hewlett was not available to take Ginn's call later that day, and arrangements through Hewlett's attorneys were made to call back after a specific time Thursday morning.

That morning, however, Hewlett filed a lawsuit before Ginn called, alleging that HP used questionable tactics to solicit votes for the merger.

"The board was stunned. There was no warning a lawsuit was coming," said a source. As a result, Ginn never made that Thursday-morning call, the source said. "He made a series of allegations that question HP's corporate governance."

HP's board once again held a conference call to resolve the nominating issue, this time on Sunday night. Although Hewlett had been notified and asked to attend, he elected not to.

In an 8-0 vote, the board voted to forgo re-nominating Hewlett to its slate of directors.

"When he entered into the lawsuit, that places him in a position of an adversary," a source said. "It would not be considered good corporate governance to renominate him as a director."

Judge Sets Date for HP-Compaq Trial

Dissident Hewlett-Packard Co. director Walter Hewlett's lawsuit seeking to halt the company's merger with Compaq Computer Corp. will go to trial April 23, a Delaware judge said Wednesday.

The suit, filed March 28, claims HP improperly enticed a big investor to back the deal and the company misled investors about the progress of plans to integrate the two computer giants.

Chancery Court Judge William Chandler III allotted three days for the trial. On Sunday morning, he is scheduled to hear arguments on HP's motion to dismiss the lawsuit.

Votes continue to be counted after five months of debate between Hewlett and merger supporters. HP chief executive Carly Fiorina claimed a small but sufficient margin shortly after the end of a shareholder meeting on the $19 billion merger.

Hewlett, the son of the late HP co-founder William Hewlett, has not conceded, saying the vote is too close to call. On Monday, HP said he would not be nominated for re-election to the board of directors.

Microsoft Remedy Should Address .Net, AOL Exec Says

A proposed settlement of the antitrust case against Microsoft Corp. would still allow the software giant to protect its Windows operating system monopoly and boost its Internet presence, an executive from archrival America Online testified on Wednesday.

AOL Vice President John Borthwick backed alternative remedies offered by nine states still pursuing the case that aim to level the playing field for non-Microsoft software.

Without such remedies, Borthwick painted a bleak picture for Microsoft's competitors. He said the new Windows XP operating system, combined with Microsoft's .NET strategy, allows the company to dominate the emerging area of services that reside on a Web server rather than in software on a user's computer.

"Microsoft's proposed remedy does nothing to ensure that Microsoft will not use its Windows operating system to thwart platform competition in the market for Web services," he said in written testimony to U.S. District Judge Colleen Kollar-Kotelly.

Borthwick, in charge of AOL's Advanced Services division, was the 11th witness called by the nine states that have rejected the settlement reached in November by Microsoft and the U.S. Justice Department.

AOL, part of the giant media and entertainment empire of AOL Time Warner , is a fierce rival of Microsoft. The software giant charges that its competitors have been behind the four-year-old case from the start.

Microsoft has said sanctions against it should not go beyond specific wrongdoings upheld by a federal appeals court last year, mainly that Microsoft tried to crush an Internet browser made by Netscape Communications in an effort to preserve the Windows monopoly. Netscape was later acquired by AOL.

Kollar-Kotelly is still considering whether the proposed settlement meets a required public interest standard.

Borthwick said Windows XP repeatedly prompts users to sign up for Passport, Microsoft's authorization software for .NET.

AOL recently joined other large companies in the Liberty Alliance, which seeks to develop a competing authentication service, after failing to agree with Microsoft on making .NET compatible with an AOL suite of services dubbed Magic Carpet.

Microsoft spokesman Jim Desler said the companies could not work out the compatibility issues because Magic Carpet was still in very early stages of development.

Borthwick said the states' proposal for broader disclosure of the inner-workings of Windows and protections against retaliation by Microsoft would allow rivals to develop services to compete with .NET.

The AOL executive also praised proposals by the states to allow third parties to license a stripped-down version of Windows that could be used to design customized computer desktops that feature non-Microsoft software.

Borthwick provided the court with a prototype for a child's computer featuring the Lego building toy that uses non-Microsoft middleware

applications like Yahoo Messenger and Kodak picture maker.

He also saw possibilities for a sports PC or a music PC aimed at high-school and college students.

The proposed settlement aims to give computer makers greater freedom to feature rival software, but Borthwick said Microsoft’s middleware would only be hidden.

Microsoft need only wait 14 days before prompting the consumer to reconfigure the desktop or sweep competing icons away into a folder off the opening screen, he said.

Under questioning by Microsoft attorney Richard Pepperman, Borthwick conceded that AOL had walked away from one PC customization proposal made last year by computer maker Compaq .

Under Compaq’s proposal, the company would have designed a "Harry Potter PC," based on the popular children’s book character.

AOL, which owns the movie rights to Harry Potter, vetoed the idea because Compaq was only allowed by Microsoft to make "superficial changes" to the computer desktop and therefore it "was not a compelling proposition to promote Harry Potter," Borthwick said.

Pepperman said allowing for such broad customization would allow other companies to sell "crummy" variations of Windows that would hurt Windows’ reputation.

Borthwick retorted that if those versions were "crummy" people wouldn’t buy them.

The states argue that remedies in the case should be broad enough to protect technologies that have arisen since the case began, handheld computing devices and interactive television.

Earlier on Wednesday, Microsoft disputed the testimony of an interactive television executive who charged Microsoft had muscled in on his company’s business.

Microsoft attorney Dan Webb challenged Mitchell Kertzman, chief executive of Liberate Technologies , to cite any examples in which Microsoft had used illegal tactics to cut into Liberate’s business. Webb also questioned Kertzman’s claim that Liberate poses a competitive threat to Microsoft.

Kertzman had said Microsoft was making inroads into interactive television by requiring the use of its software as a condition of major investments in cable television firms.

Webb pointed out that most of those companies, including Telewest, AT&T Corp. and Comcast Corp., still used Liberate software in their TV set-top boxes.

"Apparently you’ve done well with AT&T in spite of Microsoft," Webb said sarcastically.

Kertzman said Microsoft had so far not taken away any of Liberate’s business because it had failed to produce interactive TV software. "We are doing well in this nascent stage of the market despite Microsoft’s efforts to control the channels of distribution," he said.

High-profile Anti-Unix Site Runs Unix

A Web site sponsored by Microsoft and Unisys as a way to steer big companies away from the Unix operating system is itself powered by Unix software.

The site, dubbed "We have the way out," runs on Web servers powered by FreeBSD, an open-source version of Unix, along with the Unix-based Web server Apache, according to Netcraft, which tracks Web site information. Both pieces of software compete with Microsoft's Windows operating system. The Microsoft/Unisys site solicits names and contact information in exchange for research reports on data center trends.

Representatives at Unisys and Microsoft weren't immediately available for comment.

The marketing site's use of Unix comes as Microsoft works to get a greater foothold for its Windows operating system in the enterprise computing market, where Unix is well entrenched. Unisys partnered with Microsoft to co-market its large server hardware running Windows as a Unix alternative.

The Web site is just part of Microsoft's renewed marketing and advertising campaign to undermine Unix, the operating system at the heart of powerful server lines from rivals Sun Microsystems, IBM and Hewlett-Packard.

Unisys is spending $25 million on the campaign. Microsoft is adding funding of its own but has declined to say how much.

The "We have the way out" campaign describes Unix as an expensive trap. One ad reads: "No wonder Unix makes you feel boxed in. It ties you to an inflexible system. It requires you to pay for expensive experts. It makes you struggle daily with a server environment that's more complex than ever."

The same ad depicts a scene in which a computer user has painted himself into a corner with purple paint. Sun's servers are manufactured in a shade of purple similar to that in the ad.

The 18-month project will include advertisements, technical sales efforts and other marketing work plugging Unisys' high-end server and Microsoft's top-end version of Windows--two products that so far have made only their first steps into the data centers where high-end servers often reside.

The Unisys ES7000 server can accommodate as many as 32 Intel processors and can be divided into independent "partitions," each with its own operating system. The Datacenter version of Windows 2000 can run on machines with as many as 32 processors. These top-end configurations are rare, Unisys has said, with eight-, 12- or 16-processor partitions more common.

Anti-Unix Web Site On the Fritz?

When it comes to Unix, Microsoft and Unisys are suddenly silent.

The two companies launched a Web site earlier this week seeking to persuade customers to switch from the Unix operating system to Microsoft software. But as of midday Tuesday, the "We have the way out" site displayed either an all-white screen or an "Error 403" authorization message.

Unisys declined to comment on the development. A Microsoft representative, who also pulled up a blank screen when trying to access the site, said the company would look into the matter.

Although it's been around for only a few days, the site has drawn the wrath of Unix and Linux programmers.

On Monday, it was revealed that the site ran on Web servers powered by FreeBSD, an open-source version of Unix, as well as on the Unix-based Web server Apache. Both pieces of software compete with Microsoft's Windows operating system.

Netcraft, which tracks the software running on various sites, reports that the site switched over to using Microsoft Internet Information Server software on Tuesday, the same day as the outage.

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Unisys is spending $25 million on the campaign. Microsoft is adding funding of its own but has declined to say how much. Before the Microsoft/Unisys site came up blank, it solicited names and contact information in exchange for research reports on data center trends.

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Will Microsoft, Apple Renew Their Office Vows?

After nearly five years of living in technological harmony, two of the biggest names in personal computing are due to renew their vows.

In August, a contract forged in 1997 between Microsoft Corp. and Apple Computer Inc. will expire, leaving both companies legally unchained. While the companies declined to comment this week on whether they plan to renew the contract, analysts and company officials said the technical cooperation, such as the development of Microsoft's Office software for Macintosh computers, would continue.

Microsoft has scheduled a presentation for April 10 at its Mountain View, California, campus where Kevin Browne, general manager of Microsoft's Macintosh Business Unit (MacBU), is expected to discuss the future of the group and its products now that the contract is nearing its end.

Maintaining a relationship of some sort will be vital for both companies, analysts said. For one, Microsoft's Office software has become a key

application for Mac users, according to Roger Kay, director of client computing with IDC, in Framingham, Massachusetts. "Office for Mac is a really integral part of what Apple is offering. It’s very critical for Apple to have the Office suite," he said.

Analysts said maintaining ties will also be important for the Redmond, Washington, software maker as it pursues its wide initiative for delivering software and services over the Internet, called .Net.

Some of Wednesday’s presentation will touch on .Net’s role in the Mac community, Microsoft said. It comes in the midst of Microsoft’s push to get developers and users to adopt its .Net products. As for how Apple might be included in its plans, that remains an open question.

"It’s very critical to Apple that they get this .Net blessing, otherwise they’re going to get forced out of the corporate network," said Rob Enderle, research fellow with Giga Information Group Inc. Enderle noted that many Giga! customers have raised concerns recently about the cost and dif! ficulty of supporting Mac computers within corporate networks.

While Microsoft confirmed Tuesday that it plans to bring Apple into its .Net to some degree, Apple has been vague about how it will support the technology. "Basically, we’re not really sure what .Net is because it’s not very well defined," said an Apple spokesman. "But we always look at new technologies and how they can benefit Mac users."

One piece of technology that would bridge Apple’s Macintosh operating system with .Net is already in the works, though not at Apple. Microsoft and Corel Corp. have developed an alternative version of the .Net runtime environment, known as the .Net Framework, for the FreeBSD operating system. FreeBSD is a variant of Unix and is also at the core of Mac OS X, offering what should be an easy path to replicate the technology for the Mac.

A separate effort to develop a Linux implementation of the .Net Framework, known as Mono, has also committed to porting its work to Mac OS X, according to Miguel de Icaza, chief technology officer of Ximian Inc., who is leading the Mono effort.

In addition to broadening the base of users that would be able to use software and services designed to run in the .Net runtime environment, bringing Apple into Microsoft’s .Net plans could also improve networking compatibilities between Mac and Windows systems, Enderle noted.

Apple has promoted its operating system beginning with Mac OS 9 as Windows-friendly. Support for Office applications, the Windows media player and some networking capabilities have been addressed. For instance, sharing files between Windows and Mac machines is seamless, said Al Gillen, research director of software systems at IDC.

Still, Macintosh clients are still sore thumbs in corporate networks that use Microsoft server and database software, Enderle said.

"Right now we are getting the highest number of requests from people who are t! rying to migrate off of Apple," he said. "People are incredibly! concerned that these Apple machines are going to be isolated" in Windows networks.

One issue is the Unix roots in Mac OS X, which is based on the BSD operating system. "This Unix component is working against them," Enderle said. "It’s basically Unix with an Apple front end, but from the

administrators’ point of view, all they see is Unix."

While Unix is used widely by businesses it typically takes the form of server software. "Most organizations have Unix servers installed, and they’re prepared to manage Unix systems. The question is whether they’re prepared to manage large blocks of Unix clients," Gillen said.

Similar to computers running the open source operating system Linux, the Unix features in Mac OS X add a new element to network management that was not previously an issue with Windows PCs residing in a network.

"Most of the system management tools are very much geared for Windows clients. As soon as you start turning that arou! nd to Unix clients, that presents a different paradigm," Gillen continued. "Not to say the tools can’t handle Unix clients but it’s something they haven’t done previously."

Additional work on behalf of Microsoft and Apple could iron out any issues that keep Windows and Mac users apart, Enderle said. One way to do that would be for Apple to come up with a strategy that allowed its users to use Microsoft’s .Net services.

Librarians Testify in Internet Case

Inside the stately courtroom of U.S. District Judge Harvey Bartle III, there’s language coming from the bench and the witness stand that renders George Carlin’s "seven words you can’t say on television" tame by comparison. And then there’s the nudity.

In the first week of a trial debating the constitutionality of a requirement that public libraries install porn-blocking software on their computers, gray-haired librarians uttered words that could make a longshoreman blush, soft-spoken computer analysts described bizarre sexual proclivities and federal judges mulled the definition of "fetish."

One of the three veteran jurists hearing the case, U.S. District Judge John P. Fullam, summed it up as he flipped through a huge binder of color printouts from pornographic Web sites: "Dirty pictures."

And though the judges seem to be taking a certain enjoyment in the proceeding’s unusual nature, they’re focused on the importance of the issue: How or if a law can shield children from hardcore pornography without trampling on the First Amendment’s guarantee of free speech.

Week two of the trial over the Children’s Internet Protection Act, or CIPA, begins Monday.

The law, signed by President Clinton in 2000, requires that public libraries receiving certain types of federal funding install filtering software to prevent access to online smut. The rule was challenged by the American Library Association and a group of public libraries and library patrons. The American Civil Liberties Union is now arguing their case.

Librarian Candace Morgan, the first plaintiffs’ witness, didn’t flinch when government attorney Timothy Zick placed an open binder of Web porn photos in front of her.

"Is it your testimony that I have the right to look at these Web sites?"

Zick asked.

"Yes, it is," replied Morgan, the associate director of the Fort Vancouver, Wash., regional library.

Shown a particular page with an extremely raunchy title, she read it aloud to the uncomfortable snickers of some audience members and matter-of-factly stated, "We have sex manuals with similar pictures to this one."

Government witness Chris Lemmon, of computer testing firm eTesting Labs Inc., was clearly less comfortable when asked to describe some of the more disturbing Web sites he had encountered. He haltingly described pornographic sites involving, among other subjects, elderly women.

"It was disturbing," he testified.

Unlike two previous laws addressing Internet porn that were struck down by federal judges in Philadelphia, CIPA deals only with funding and not with direct restrictions on Internet access.

The 1996 Communications Decency Act, which made it a crime to put adult-oriented material online where children can find it, was thrown out by the Supreme Court as unconstitutional.

The 1998 Child Online Protection Act, which required sites to collect a credit card number or other proof of age before allowing Internet users to view material deemed "harmful to minors," was sidelined by the 3rd U.S. Circuit Court of Appeals. The Supreme Court is expected to rule this year.

The plaintiffs in the latest case say CIPA relies on inexact technology that censors protected speech and lets porn through; amounts to "economic censorship" for libraries serving poor areas; and improperly takes content decisions away from the libraries and their patrons and gives them to the federal government.

The government maintains that librarians can unblock sites improperly censored by the software and they say safeguards need to be placed between children and World Wide Web porn purveyors lying in wait for them.

Libraries that don’t want filters can simply turn down the subsidies, the government lawyers say.

The judges are expected to rule on the case by early May to give libraries time to comply if the law is upheld and goes into effect as scheduled July 31. Any appeal of the panel’s decision would go directly to the Supreme Court.

Judges End U.S. Library Porn Trial on Skeptical Note

A two-week federal trial to determine how far the government can go to protect children from pornography on library computers ended on Thursday with judges openly concerned about whether the latest online smut law from Congress infringes on free-speech rights.

The Children’s Internet Protection Act, or CIPA, which supporters view as the government’s best shot yet at reining in online smut, requires public libraries to install filtering software on all computers or lose federal

technology funding.

Attorneys for a plaintiffs' coalition of libraries, library patrons and Web site operators, who want CIPA overturned, said in closing arguments that libraries cannot implement the law without denying patrons their First Amendment right to free speech under the U.S. Constitution.

"We're stuck right in the heart of the First Amendment when we're talking about libraries," observed 3rd U.S. Circuit Court of Appeals Chief Judge Edward Becker.

Becker heads a three-judge panel that will rule by early May on a plaintiffs' request for a permanent injunction against CIPA. Whichever way the ruling goes, the case will be appealed directly to the U.S. Supreme Court.

A key plank in the case against CIPA is the limitations of filtering software products such as Cyber Patrol, Smart Filter, Web Sense and N2H2, which are designed to block access to Web sites deemed harmful to children under 17, including more than 100,000 sites with sexually explicit content.

But even the government's attorneys concede that no product on the $250 million filtering software market can screen out objectionable Web sites without also blocking constitutionally protected sites including those of Sports Illustrated, Planned Parenthood and Salon.com.

The law's "terms, if you will, are a sham. Everybody knows you can't comply with its terms," American Civil Liberties Union attorney Chris Hansen told the court.

U.S. District Judge Harvey Bartle appeared to agree. "Every witness has testified that the statute can't be applied according to its own terms," he said.

Judges also seemed concerned that the decision about which of the 11 million World Wide Web sites deserve to be blocked is made by anonymous corporate officials who consider their choices to be vital trade secrets.

"The nameless and faceless," intoned U.S. District Judge John Fullam. "What right does the government have to require this kind of filtering system?"

CIPA, the third attempt by Congress to control online pornography, was theoretically designed to weather free speech challenges by seeking only to cut off federal library funds rather than impose direct censorship restrictions.

At stake for the nation's 40,000 public libraries are hundreds of millions of dollars in subsidies, such as grants provided under the Library Service and Technology Act, which are used to automate services and pay for Internet access.

But the case also goes to the heart of the role libraries play as an open source of information in their communities.

The judges expressed empathy for communities that want to protect children from an aggressive commercial pornography industry intent on luring young customers. However, they also recognized the constitutional dangers of leaving censorship decisions to the local majority opinion.

Among the legal issues before the panel is whether judges can overturn CIPA without also branding unconstitutional the filtering systems already in place at libraries in Greenville, South Carolina, and Tacoma, Washington, which both provided evidence and testimony for the government’s defense.

"There is no constitutional right to immediate, anonymous access to speech, for free, in a public library," Justice Department attorney Rupa Bhattacharyya said in a spirited defense of CIPA that equated filtering software usage to the choices libraries make selecting books for their collections.

"Even if you assume that libraries have a right to provide unfettered access to the Internet, they don’t have a right to do so with a federal subsidy," she added. "The crux of this matter is whether or not Congress has the power to decide how to use its money."

The first attempt by Congress to control online smut, the 1996 Communications Decency Act, was thrown out by the Supreme Court as an infringement of free speech. The second, the 1998 Child Online Protection Act, remains sidelined by an injunction with the U.S. high court due to issue a final opinion by mid-year. Both would impose criminal penalties on violators.

E-mail Is Evolving Into Fee-mail

Christopher Larson has been suspended from MSN Hotmail six times recently.

His crime: exceeding the new 2-megabyte storage limit that Microsoft’s Web-based, ad-supported free e-mail service gives users.

"Some goofball put me on a bulk mailer on a Sunday, and I got 1,000 pieces of mail in one day," says Larson, 43, a Los Angeles paralegal. "By Monday, I couldn’t get to my e-mail until I cleared out my inbox. No matter what you do to screen out junk mail, with Hotmail it just doesn’t work."

Larson lost mail; his friends had their e-mails bounced back as undeliverable. Hotmail’s solution: Buy more storage space for $19.95 a year, which Larson refuses to do.

Fees for e-mail are the latest addition to the "formerly free, now comes with a fee" trend that has been transforming the Internet from a free information superhighway to a toll road over the past 12 months.

Though free Web-based e-mail hasn’t gone away yet, the service offerings are getting fewer, and charges are creeping in.

Yahoo just announced pricing plans for automatic forwarding of Yahoo mail to other accounts: $19.99 a year if you sign up now; $29.99 after April 24. Mail.com charges $39.95 for the same service; extra storage starts at $29.95 yearly.

"It’s clear which way this is headed -- to get people to pay for their e-mail," says David Ferris of Ferris Research, which specializes in communication technologies. "The service providers will give less options, and the noose will be drawn even tighter."

Unlike many Web innovations that were met with indifference by the public, free e-mail has become a victim of its own success. Microsoft bought the then-8.5-million-member Hotmail in 1998 for $400 million, seeing it as a vehicle to market its products. Today, it claims more than 110 million total members (and has 34.5 million users a month) -- and the costs associated with processing all that mail are enormous.

"I don't know if this is the beginning of the end of free e-mail. We're not thinking in that direction at this point," says MSN's Parul Shah, who oversees Hotmail. "But who knows what can happen down the line? E-mail has become so popular, and at the end of the day we're a business and have to figure out how to make ends meet."

She won't give specific numbers but says the response to MSN's offer to purchase extra storage has "exceeded our expectations."

Yahoo's Lisa Pollock also was "pleasantly surprised" at sign-ups for paid mail-forwarding, which is aimed at students and others whose e-mail addresses may be temporary. "If they align their e-mail to a certain stage in their life, the Yahoo mail transports when they move to the next stage."

In the past several months, such formerly free offerings as Web-based file and photo storage and video news feeds started charging, which makes users wonder whether Yahoo is planning to rethink free e-mail, too.

"Right now, we're committed to offering a free e-mail product and enhanced services for people who find value in incremental offerings," Pollock says.

E-mail is included in America Online's monthly $23.90 membership fee, says AOL spokesman Nicholas Graham. "We do not offer a premium e-mail plan because we believe e-mail already is a premium service." AOL members also see a small banner ad.

Evan Williams, who tracks new fees on a Web site called The End of Free (theendoffree.com), isn't up in arms over the shift in e-mail fees. "My take is that this is a necessary thing to happen," he says. "Everything being free has held back innovation."

The concept behind free e-mail was that millions would sign up, and sponsors would want to reach them with ads, says Joyce Graff, an analyst with market research firm Gartner. Millions did sign up, but "when people go into their e-mail, the last thing they want to see is an ad," she says. "It's like, get this out of my face. They get more annoyed than enticed by it."

And even though top mail providers Hotmail and Yahoo attract millions to view the banner ads at the top of the page, not enough advertisers have signed up.

Most users of free e-mail accounts consider them a backup, Graff says; most also have a paid account with AOL or another Internet service provider. "They're a convenience, good for additional people in your household, or a place to sign up to participate in lists. E-mail is everything to people, but if it's your third account, you might choose to give it up. The only reason you have it is because it's free, so you think hard before paying."

Betsy Platnick, 48, of Mill Valley, Calif., says "the whole point of

Hotmail is it’s free. I’m already paying a fortune for DSL (a high-speed connection) and AOL. If (Hotmail) switches to all-pay, I’ll just drop it."

Larson says he would never pay for Hotmail because of the heavy spam the account attracts. He says he receives 200 junk e-mails a day with offers of legalized gambling and sex aids (news - web sites). "If you want me to pay, I should be guaranteed that the mail I get is the mail I want."

Microsoft’s Shah responds that "Hotmail is one of the largest e-mail services, so we’re a target for spammers. We’re doing everything we can to get rid of it."

Larson also has a Yahoo account, which doesn’t have the same spam problem, he says. If push came to shove and he had to pay for that one, "I’d probably say yes."

But at Yahoo, a policy shift as of Thursday could invite more spam into user mailboxes. The change caused much consternation in chat rooms over the weekend.

Yahoo sent out e-mails to its registered users announcing a change in its "privacy policy" requiring members to reset their "marketing preferences."

Despite what Yahoo members have indicated in the past, accounts have been reset to automatically accept blurbs for everything from products to job offers and matchmaking services. The only out is for members to go back in and check "no" in each category within the next 60 days.

This was done to "make it easier for you to manage the marketing communications you receive from Yahoo," wrote the company.

Is Your E-mail Watching You?

Watch out--the spam choking your e-mail in-box may be loaded with software that lets marketers track your moves online, and you may not even be aware that you’ve been bugged.

Web sites have long planted bits of code called "cookies" on consumers’ hard drives to tailor Internet pages for returning visitors and better target ads. Now, enhanced messages that share the look and feel of Web pages are being used to deliver the same bits of code through e-mail, in many cases without regard for safeguards that have been developed to protect consumer privacy on the Web.

"All of the security and privacy issues on the Web now relate to e-mail," said Adam Shostack, director of technology at Zero-Knowledge Systems, a Montreal-based privacy and security company. "The shame about this behavior is that it’s going on surreptitiously and people are not given an obvious way to opt out."

Consumer notice and choice have been at the heart of the Internet privacy debate for years, driving popular Web companies including eBay, Yahoo and DoubleClick to write tough-sounding Web privacy policies. Playing offense, civil libertarians and privacy groups for years have stalked Web sites for violations of their stated policies and have kept an eye on secretive

tracking tactics. Although many of the same troubles are cutting into e-mail, disclosure of such data-gathering practices has not received anywhere close to the level of scrutiny it has had on the Web.

With e-mail, however, the stakes for consumer privacy may be higher.

After battling consumer advocates for years over the issue, Web sites now typically cloak visitors' identities and collect data anonymously. By contrast, junk e-mailers and even some legitimate marketers have begun to use cookies and other techniques to link specific addresses to surfing behavior, security experts said.

In some cases, spammers may be able to link formerly anonymous consumers with their e-mail addresses. For example, a Web site specializing in horoscopes may know a consumer only by birth date. But if that Web site rents a list of e-mail addresses with that consumer's address on it, the company may be able to link the address to the individual's birth date and visits to the site.

"In many ways, e-mail tracking is more powerful because they can correlate the e-mail address with online history," said Lance Cottrell, president of Anonymizer, an Internet privacy services company.

"There isn't an opportunity to be fully informed when you receive a spam with remotely loaded graphics used to track your computer," he added. "It's a bit of a loophole in the whole process."

The rise of e-mail tracking runs parallel to the adoption of "rich e-mail," or messages that incorporate the programming language most commonly used to display Web pages, known as HTML (Hypertext Markup Language). Such messages may include Web pages, audio and video in addition to ordinary text.

According to a recent report from the industry trade group the Direct Marketing Association (DMA), 65 percent of online marketers regularly send HTML e-mail to consumers or prospective customers. By incorporating HTML, the e-mail acts like a Web page, requesting graphics and content from a Web server and counting as a "hit" to the company's Web site.

Taking advantage of the technology, marketers can track how and when people respond to e-mail, note where they click, and trace follow-up actions on their Web pages. They do this by embedding cookies or clear GIF images known as Web beacons, an action that isn't possible in a simple text message.

On the simplest level, marketers may embed a numeric tracking code in the "from" line. This code is sent back to the Web site's service when the recipient visits the site from the e-mail. More sophisticated tracking can involve cookies so that the Web site can detect whether the consumer visits the site days later. Cookies can also help determine how much revenue was booked on a Web site as a result of an e-mail campaign by following the recipient throughout a visit.

The monitoring technology can be planted on consumer hard drives at various stages in the process of delivering and reading an e-mail. In many cases, cookies or Web beacons are set the moment the recipient opens the message or views it in the preview window of the e-mail program. In other cases, cookies are set only when the person clicks on an embedded link that leads to a Web site--an action some argue is part of the Web experience and is the purview of Web privacy policies.

Digital Impact, an e-mail marketing services company, uses a range of tactics to measure the effectiveness of campaigns for its customers, which include Citigroup, Bank of America, Wal-Mart, Target and the Gap.

Since its launch in 1998, Digital Impact has sent about 3 billion commercial e-mails. Gerardo Capiel, chief technology officer and co-founder of Digital Impact, said that while about 70 percent of the e-mail the company sends for customers is HTML, less than 30 percent of HTML e-mail includes tracking technology. Capiel said the company asks that its customers address e-mail communications in their privacy policies.

"We don’t set a cookie when you open the e-mail, but you might get one when you click through," he said. "It’s really a question of how aggressive the marketer wants to get to track revenue."

Capiel said the company only sends messages to consumers who have opted to receive communications from the client. Still, he acknowledges that people can be sensitive to cookies. "You may end up irking some customers," he said.

Experian, another e-mail marketing services company, started using cookies this year to better track digital communications for its customers. According to its privacy policy, it uses cookies and Web beacons to monitor when an e-mail was opened, how many times an e-mail recipient forwarded the message, and which Web addresses were clicked on, among other actions.

Christine Frye, chief privacy officer of Experian’s e-marketing services unit, said the company has started working with customers to educate them on updating their privacy policies to include e-mail tracking. So far, "they’ve been very receptive to that," she said. She would not name any Experian customers.

Such techniques have become pervasive enough to attract the attention of browser and e-mail software makers.

Some e-mail programs already include settings allowing consumers to block cookies. Microsoft’s Internet Explorer 6.0, for example, offers controls for cookies on the Web and via the company’s Outlook and Outlook Express e-mail programs. Turning on the "prompt for cookies" setting can reveal the stunning extent of the problem, unmasking unsolicited HTML e-mail messages that try to lay down cookies on a hard drive.

According to Microsoft, IE 6, Outlook and Outlook Express block cookies by default in HTML mail and place such mail automatically in a secure "restricted" zone. The settings have not always proven effective, however--well-known security expert Richard Smith has reported at least one bug that allows cookies to be planted through Outlook despite the default settings.

Rajeev Dujari, development manager on IE 6 for Microsoft, countered that Outlook is designed to let consumers read e-mail in different security zones and control cookies through privacy settings. But he admitted that consumers need to better educate themselves to set a defense against increasingly invasive marketing tactics.

"Our default is around cookies being part of a Web experience rather than an e-mail experience," Dujari said. "When consumers get e-mail, people don’t usually expect a cookie."

There’s a fine line between spam and commercial pitches from an online

retailer that ask for permission to send a message. In both cases, the message may plant a cookie on the receiver’s hard drive, but the spammer, by definition, has done so without any pre-established relationship. Still, consumers at the receiving end of both kinds of messages are often not notified of monitoring--either in the mail or in Web privacy policies--nor given the option to block cookies in the future, privacy experts said.

Direct marketers are just starting to pay attention to this area. Pat Faley, vice president of ethics and consumer affairs for the DMA, a 5,000-member organization of retailers, said the group urges members to include in all e-mail a link to their privacy policies. She added that members should "definitely disclose e-mail tracking practices in their Web site privacy policy."

E-mail marketing also raises sticky questions for marketing services companies, which deliver ads into rich e-mail. Although these companies typically guarantee anonymous data-collection, it theoretically would be easy to tie that data back to an e-mail address in an e-mail-based marketing campaign, according to privacy experts.

DoubleClick, a heavyweight in Web ad delivery and e-mail marketing, offers a service called DartMail that lets companies manage, deliver and track e-mail marketing campaigns. The technology allows customers to add software such as cookies or Web beacons to a campaign and track the effectiveness of a promotion.

DoubleClick said that data it collects online is kept separate from data collected through e-mail.

J.Crew is a customer of DoubleClick’s DartMail, but the retailer does not specifically address e-mail monitoring practices in the privacy policy published in its Web site. The policy says only that "in some instances, we may use third-party companies to help us serve you better. These companies may be given access to some or all of the information you provide to us and may use cookies on our behalf."

J.Crew did not immediately respond to requests for comment.

To be sure, some retailers are starting to refer to e-mail monitoring in privacy policies. Amazon.com, for example, mentions that it may use tracking methods via e-mail to determine preferences for future communications. Still, privacy advocates said e-mail privacy practices are largely under-disclosed compared with other media such as the Web.

"E-mail privacy hasn’t been on the radar until recently," said Larry Ponemon, CEO of the Dallas-based Privacy Council, a knowledge management and technology company. He added that most companies still don’t fully understand how e-mail plays a role in privacy and security.

One problem with the disclosure of e-mail privacy stems from the large percentage of e-mail marketing campaigns that are conducted at arm’s length through third-party providers. As a result, companies that retain e-mail marketing services may not always be fully aware of the practices employed on their behalf.

Although many major companies outsource their e-mail marketing to companies that openly admit to using cookies and other tracking techniques, the privacy policies published online by these companies do not always address the issue of e-mail monitoring.

"There’s a lot less transparency around what’s happening in e-mail marketing than with Web content," said Alex Fowler, senior director of policy and advocacy at Zero-Knowledge Systems.

Walmart.com, for example, delivers opt-in e-mail marketing through third-party providers. It does not mention e-mail monitoring in its privacy policy, however, which was last updated Dec. 8, 2000, according to its Web site.

In an interview, Walmart.com spokeswoman Cynthia Lin confirmed that the company tracks customers through e-mail using "software technology." Still, she said, the company’s privacy policy is adequate.

For one thing, the company does not use cookies, she said. In addition, she said that any data gathering that occurs after consumers leave the e-mail client is not technically part of the e-mail experience, even if the original Web link is embedded in an e-mail. Once consumers are whisked to the Web, all of the company’s practices are covered by its Web policy, which clearly states that the company never sells or rents customer information.

"When customers do get those e-mails and click on links within them, we are aleb to track that information," she said. "We have made every effort to
make our security and privacy policy as clear as possible to our customers."

Microsoft Considers Raising MSN’s Price

Microsoft on Monday said it is evaluating new features and a possible price increase for a pending version of its MSN Internet Access service, due out later this year.

"As we add value to the service, we’re going to evaluate the price. But nothing has been decided," a Microsoft representative said.

A price increase for MSN 8.0 would bring the service price closer to that of its biggest competitor. Microsoft currently charges $21.95 a month for standard dial-up service. Last year, America Online increased the price of its standard dial-up service to $23.90 a month, and Earthlink raised its subscription rate by $2 to $21.95 a month.

"If your major competitor raises prices, you’re going to think about whether you will too," said Rob Lancaster, senior analyst at the Boston-based research firm The Yankee Group.

Microsoft has waged an intensive campaign aimed at wooing customers to its lower-priced service, offering substantial incentives such as free months of service for AOL members who switch. Through such tactics, it has attracted some 7 million subscribers compared to AOL’s 34 million.

Although Microsoft has appeared willing to absorb heavy expenses associated with acquiring new members and running its MSN service, it has also demonstrated signs of cost consciousness. Last year, it discontinued a $400 rebate program after acknowledging that the program had eaten into its bottom line.

Earlier this month, MSN began to enforce limits on storage for its free Hotmail Web-based e-mail service while heavily promoting a premium version for $19.95 a year.

The Yankee Group’s Lancaster noted that the price gap between MSN and AOL leaves ample room for the company to preserve a small discount even if it decides to charge more.

"Perception is everything here. MSN wants to be perceived as an AOL competitor and viewed on the same plane," he said. "But MSN wants to stay slightly cheaper than AOL. If they see a little space to raise their prices and stay under AOL, I don’t think it will damage them."

Stealth P2P Network Hides Inside Kazaa

A California company has quietly attached its software to millions of downloads of the popular Kazaa file-trading program and plans to remotely "turn on" people’s PCs, welding them into a new network of its own.

Brilliant Digital Entertainment, a California-based digital advertising technology company, has been distributing its 3D ad technology along with the Kazaa software since late last fall. But in a federal securities filing Monday, the company revealed it also has been installing more ambitious technology that could turn every computer running Kazaa into a node in a new network controlled by Brilliant Digital.

The company plans to wake up the millions of computers that have installed its software in as soon as four weeks. It plans to use the machines--with their owners’ permission--to host and distribute other companies’ content, such as advertising or music. Alternatively, it might borrow people’s unused processing power to help with other companies’ complicated computing tasks.

Brilliant Digital CEO Kevin Bermeister says computers or Internet connections won’t be used without their owners’ permission. But the company will nevertheless have access to millions of computers at once, almost as easily as turning on a light switch.

"Everybody will get turned on in more or less a simultaneous fashion," Bermeister said. "This will be an opt-in program...We’re trying to create a secure network based on end-user relationships."

The Brilliant Digital plan is the most ambitious yet from a string of companies that have tried to make money off the millions of people who are downloading and using free file-swapping programs such as Kazaa, MusicCity’s Morpheus or LimeWire.

Nearly all of the file-swapping programs now routinely come bundled with so-called adware or spyware--programs that automatically pop up advertisements while people surf the Web or that keep track of where someone surfs, information that can then be sold to marketing companies. Despite growing concerns about this bundled software, usage and downloads of the file-swapping programs are at an all-time high.

But Brilliant’s plan, by tapping into the computer resources of the file-swappers themselves, has fallen into a new realm where start-ups such

as Kontiki and Red Swoosh are just starting to gain traction. Those companies are trying to use peer-to-peer technology to distribute content more quickly online, but they face a battle convincing people to install their software and become distribution points.

Brilliant, by contrast, already has potentially tens of millions of computers in its network, simply by piggybacking on top of Kazaa.

According to CNET Download.com, a popular software aggregation site owned by News.com publisher CNET Networks, the Kazaa software--and by extension the Brilliant software--was downloaded more than 2.6 million times last week alone. Brilliant has been distributing the core technology for its peer-to-peer service along with Kazaa since February, Bermeister said.

The Brilliant network is based on a piece of software called "Altnet Secureinstall," which is bundled with the Kazaa software. That technology can connect to other peer-to-peer networks, ad servers or file servers independently of the Kazaa software and can be automatically updated to add new features, according to Brilliant’s filing.

When the software is "turned on," computers running the Brilliant software will form a new peer-to-peer network separate from but connected to Kazaa, the filing said. A few computers with fast connections will form the early core of the network and be asked to join first. Other ordinary computers and Net connections will be invited later, Bermeister said.

Brilliant’s software will be able to understand and respond to searches inside Kazaa, since it is based on the same technology. But if it is successful, Brilliant will be able to host content and run "distributed computing" applications over the new network that is entirely separate from Kazaa or other file-swapping networks based on the same technology.

Brilliant and Bermeister have played a central role in many of the events shaping the file-swapping world in the past few months.

Bermeister began distributing his company’s 3D advertising software along with the Kazaa software last year. That’s how he got to know the founders of Kazaa BV, the Dutch company that created the file-swapping technology originally used by Kazaa, Morpheus and Grokster.

When the Kazaa BV founders decided they didn’t want to be in the network business, Bermeister introduced them to a former associate in Australia, Nicola Hemming. Her new company, Sharman Networks, bought the Kazaa software and continues to distribute it.

Bermeister is now drawing on his association with the Dutch programmers for his new venture. Brilliant has created a new company for the peer-to-peer service, called Altnet. It has licensed the Dutch programmers’ technology from their new venture, called Blastoise. According to Brilliant’s annual report, filed Monday, the Dutch programmers have taken a 49 percent stake in Altnet.

Brilliant has been subpoenaed in the record labels and big movie studios’ copyright infringement lawsuit against Kazaa BV. No suit has been filed against Brilliant or Sharman Networks, however.

The immediate plans for Altnet, Brilliant and the new peer-to-peer network remain unclear.

Bermeister said the company had been testing the technology along with ad

giants DoubleClick as a way to serve ordinary Web ads more quickly. Under this plan, an ad that a person sees on a Web site might be hosted by a nearby computer running Brilliant's Altnet instead of on a central ad server, as now typically happens with DoubleClick.

Brilliant's CEO was quick to note that people would be asked before their computers were used for this or other purposes. He said the software would show a pop-up box explaining the network's function and giving people a chance to turn it off. People who allow their computers to be used will be compensated somehow, possibly with gift certificates or free videos, the company's filing said.

However, people who accept "terms of service" already distributed with Brilliant's and Kazaa's software are already agreeing to let their computers be used without any payment at all.

"You hereby grant (Brilliant) the right to access and use the unused computing power and storage space on your computer/s and/or Internet access or bandwidth for the aggregation of content and use in distributed computing," the terms of service read. "The user acknowledges and authorizes this use without the right of compensation."

Anybody who declines this provision is not able to install the Kazaa file-swapping software. Brilliant's software can be disabled or removed after installation without affecting Kazaa's performance, however.

A representative for Sharman, which distributes the Kazaa software, could not be reached for comment.

Privacy-rights advocates contacted for comment expressed some concern about the way the Altnet software has been distributed and about whether the millions of people who already have it installed on their computers will be tech-savvy enough to know what they're agreeing to when and if Brilliant does ask to use their computers.

"A lot of the people most likely to use this software are teenagers or college students. There's a lack of sensitivity about privacy in that age group," said Larry Poneman, CEO of Privacy Council, which helps companies manage privacy issues. "Do they really want to be commandeered and have their machines do things that aren't necessarily in their best interest?"

Kazaa Exec Defends Sleeper Software

Two days after disclosures that file-swappers using Kazaa were unwittingly downloading software that could turn their computers into part of a new network, Kazaa's owner spoke up to defend the company's actions.

As previously reported, Kazaa quietly has been bundled for two months with software that contains the core of a new peer-to-peer network. This software, from a California company called Brilliant Digital Entertainment, has been installed on potentially tens of millions of computers. Brilliant Digital plans to "turn on" this software in four to six weeks, tapping the resources of potentially tens of millions of ordinary PCs to distribute content or advertising or to run complicated computer tasks.

Kazaa is owned by Australian company Sharman Networks, whose chief executive, Nicola Hemming, on Wednesday defended the company's arrangement

with Brilliant Digital as having "no downside" for Kazaa users.

"Nothing from (Brilliant Digital) has been downloaded which breaches Sharman's or industry standards of users' privacy protection," Hemming wrote in a statement. Brilliant Digital has simply acted in "much the same way that major software publishers such as AOL, Microsoft and RealNetworks (do to) deploy components for future functions," she added.

Brilliant Digital's plans, first outlined in a document filed Monday with U.S. securities regulators, are the most reaching yet of a long list of companies trying to make money off the millions of people who download and use file-swapping software.

The company, run by Australian entrepreneur Kevin Bermeister, originally focused on 3D advertising and media software. Its advertising software was distributed last year along with Kazaa, while the file-swapping software was still owned by the group of Dutch programmers who had created its original peer-to-peer technology.

But in February, Brilliant Digital created a new subsidiary, called Altnet, with the ambitious goal of creating a new peer-to-peer network that piggybacked on Kazaa's wide distribution. The original Dutch programmers took 49 percent of Bermeister's new company and licensed their peer-to-peer technology to Brilliant Digital.

The Kazaa program itself was sold to Sharman early this year. But Sharman's Hemming, a former business associate of Bermeister, agreed to continue distributing Brilliant Digital's software along with Kazaa.

That new software, the core of Brilliant Digital's Altnet business plan, has the ability to "wake up" and weld the millions of computers on which it has been installed into a new peer-to-peer network, in which each computer can talk to the other. That network, which would be controlled by Brilliant Digital, would be used to distribute content or perform complicated distributed computing tasks for Brilliant Digital's clients.

Bermeister said in an interview Monday that Altnet would get people's permission before using their computers. When the network is activated, a pop-up box will appear and ask if the computer user wants to participate. Those who do participate will be compensated, possibly with gift certificates or free videos, he said.

The disclosure of the sleeper network set off a firestorm of criticism among Kazaa users, however. Kazaa has been downloaded well over 20 million times since early February, creating a huge base of people who might be affected.

"That is the most frightening thing I have read, since I am a Kazaa user myself," Eric Santiago wrote in one typical e-mail. "I guess I should uninstall and start reading user agreements in the future."

The news has also thrown the program's owner into the defensive. Hemming defended Brilliant Digital's plan as a way for all Kazaa users to have a "richer P2P experience," including faster downloads, new kinds of content, and the ability to be compensated for use of their extra computing power.

But Hemming also spotlighted her own companies' privacy policy for the first time, describing exactly what information Kazaa keeps.

The policy reads much like other Web sites'. The company collects a

considerable amount of data in its log files, including Internet service provider, Internet address, date and time of visit, and number of clicks. It does not collect personal information from log files, the company says.

The company also does not collect information on what files people are searching for or storing as part of the file-swapping program, a representative said.

Judge Says U.S. Has Jurisdiction in Internet Case

A federal judge has denied a motion to dismiss a lawsuit filed against a Russian company accused of violating a controversial U.S. copyright law, saying that even though the activity transpired over the Internet the United States still has jurisdiction.

Attorney Joseph Burton of law firm Duane Morris in San Francisco acknowledged on Tuesday the novelty of the argument he made on behalf of his client, Moscow-based ElcomSoft Co. Ltd., in one of the most closely watched cases challenging the 1998 Digital Millennium Copyright Act (DMCA).

ElcomSoft is accused of violating the DMCA by selling online a program that allowed people to circumvent copyright protections in electronic books. Burton had argued that because the conduct occurred over the Internet, the U.S. court didn’t have jurisdiction.

"I’m disappointed but not surprised," he told Reuters. "It’s a motion that’s a little bit ahead of its time. I think it will take a while for courts to understand the real nature of the Internet and how it works and how we interact with it before a motion like this has a better reception."

Burton argued that regardless of where the company’s Web site was located, the activity itself was transacted over multiple borders in the digital realm, and therefore not within the jurisdiction of U.S. courts.

But in a ruling dated last Wednesday and received by defense and prosecuting attorneys this week, U.S. District Court Judge Ronald Whyte in San Jose, California, said there was sufficient conduct occurring within the United States for his court to rule.

"The conduct which underlies the indictment includes ElcomSoft’s offering its AEBPR program for sale over the Internet, from a computer server physically located in the United States," the judge wrote. "Purchasers obtained copies of the program in the United States... Payments were directed to, and received by, an entity in the United States."

The judge previously denied a defense motion to dismiss conspiracy charges against ElcomSoft, but Burton said the judge said he could refile that motion after getting more information.

A hearing is set for April 15 at which a trial date may be set, lawyers said. They said they did not know when the judge would rule on the two remaining motions to dismiss.

On Monday, lawyers for both sides presented their arguments before the judge on two other, more significant motions to dismiss filed by the defense. Defense lawyers contend that the DMCA is overly vague and violates ElcomSoft’s constitutional rights to free speech.

Prosecutors counter that the law clearly targets digital pirates and tools that allow people to make unauthorized copies of digital copyrighted material.

ElcomSoft's program, sold briefly on the Internet last year, allowed people using Adobe Systems Inc.'s eBook Reader to copy and print digital books, as well as transfer them to other computers and have the computer read them aloud.

The ElcomSoft case is widely viewed as a crucial test of the DMCA, which civil rights advocates and software programmers contend gives copyright owners broader protection than they have over non-digital material, at the expense of individuals' rights to legitimate use.

Movie studios and record labels argue that the law is necessary to keep people from indiscriminate and unauthorized copying of films and music over the Internet, where digital material is so easily digested and transferred.

ElcomSoft faces $2.25 million in fines. The employee who wrote the program at the heart of the case was released with the promise that charges would be dropped against him in exchange for his testimony.

Dmitry Sklyarov, 27, returned home in December and said he will return to testify in support of his employer. He was arrested in July after presenting his program at the DefCon hacker conference in Las Vegas.

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